

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ATHENS DIVISION**

MICHAEL TERRANCE WARD,

Plaintiff,

v.

**Officer MARIE MITCHELL,
OCONEE CO. DETENTION CENTER,
Sheriff SCOTT BERRY, Captain
CHUCK JOHNSON, and Officer
WAYMON FIELDS,**

Defendants.

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No. 3:10-CV-78 (CAR)

ORDER ON MAGISTRATE JUDGE’S ORDER AND RECOMMENDATION

This matter comes before the Court on the United States Magistrate Judge’s Order and Recommendation. [Doc. 11]. The Magistrate Judge issued an original Order and Recommendation [Doc. 5]. In that Order, the Magistrate Judge granted Plaintiff’s motion to proceed IFP. The Magistrate Judge also recommended the dismissal of Defendants Oconee County Detention Center, Sheriff Scott Berry, and Captain Chuck Johnson. Finally, the Magistrate Judge found that the claims against Defendants Officer Marie Mitchell and Officer Waymon Fields passed frivolity review and recommended that the claims against those two defendants be allowed to proceed. Plaintiff filed a timely objection raising new factual allegations. [Doc. 7].

In response to Plaintiff’s objections, the Magistrate Judge issued the Order and Recommendation currently before the Court. There, the Magistrate Judge construed Plaintiff’s objections as a motion to amend the complaint and granted that motion. The amendment to the complaint changed the Magistrate Judge’s recommendation as to the disposition of the claims in one

respect. The Magistrate Judge still recommends dismissing Oconee County Detention Center and Captain Chuck Johnson as defendants and allowing the claims against Officers Marie Mitchell and Waymon Fields to proceed. In light of the amendments, however, the Magistrate Judge no longer recommends dismissing Sheriff Scott Berry, but instead allowing the claims against Sheriff Berry to proceed as well. Plaintiff did not file an objection to this Order and Recommendation.

Having considered the Magistrate Judge's Order and Recommendation, the Court agrees with the Magistrate Judge's assessment. Accordingly, the Magistrate Judge's Order and Recommendation is **HEREBY ADOPTED AND MADE THE ORDER OF THE COURT.**

CONCLUSION

In accordance with the Order and Recommendation of the United States Magistrate Judge, Plaintiff's claims against Defendants Oconee County Detention Center and Captain Chuck Johnson are **DISMISSED**, but Plaintiff's claims against Defendants Sheriff Scott Berry, Officer Marie Mitchell, and Officer Waymon Fields may proceed.

SO ORDERED this 13th day of January, 2011.

S/ C. Ashley Royal
C. ASHLEY ROYAL, JUDGE
UNITED STATES DISTRICT COURT

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